

Friday, 25 October 1946

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Chambers of the President
War Ministry Building
Tokyo, Japan

PROCEEDINGS IN CHAMBERS

For the purpose of recording an
agreement with regard to the copying of
extracts from the KIDO Diary.

Before:

THE HON. SIR WILLIAM WEBB,
President of the Tribunal and
Member from the Commonwealth
of Australia.

Reported by:

Antoinette Duda
Official Court Reporter
IMTFE

Appearances:

For the Prosecution Section:

MR. A.S. COMYNS CARR

For the Defense Section:

MR. WILLIAM LOGAN, Jr., Counsel for
the Accused KIDO, Koichi
MR. MICHAEL LEVIN, Counsel for the
Accused SUZUKI, Teiichi
MR. GEORGE A. FURNESS, Counsel for
the Accused SHIGEMITSU, Mamoru
MR. G. F. BLEWETT, Counsel for the
Accused TOJO, Hideki
MR. R. USAMI, Counsel for the
Accused HIRANUMA, Kiichiro

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The proceeding was begun at 0900.

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THE PRESIDENT: Yes, Mr. Carr?

MR. COMYNS CARR: This is, Mr. President, an application for the purpose of recording an agreement at which we have arrived with regard to the copying of extracts from the KIDO Diary. There are a large number of them. And in the Diary, itself -- of which the defense have for a long time been in possession of a full copy -- a great many matters quite irrelevant in this matter are included in most days' entries in addition to matters which are relevant. The copying and translating sections of the prosecution, I find, have not followed a very consistent policy about that. In some cases they have copied the whole day's entry regardless of its relevance or otherwise; in other cases they have only copied the relevant part.

I supplied my friend, Mr. Logan, with a complete list of all the dates on which we propose to put in entries, but the copies are not yet sufficiently complete to make an application under Rule 6b(1), attaching a copy of each of the 107 entries proposed to be used. Therefore, my friend, Mr. Logan, has been good enough to agree with me that, I having supplied him with this list, no objection will be

taken to the admission of any particular extract on the ground that it is not a complete copy of the whole of the extract for the day.

Of course, if on any particular day there is any other part which he wants put in, that could be copied off and supplied. But we believe that in every case we **shall be supplying the** whole of the entry for the day so far as it relates to the matter which we are putting before the Court.

THE PRESIDENT: Mr. Logan.

MR. LOGAN: I agree to that, as Mr. Carr said. Yesterday I told him I would have to take it up with some of my colleagues here who are principally involved on some of these excerpts. We would like to have these excerpts deposited with the Clerk of the Court at least seven days before they are used; and, also, if possible, I would like to have an additional copy that I can use to check for translation purposes before they go in evidence. I think that is a reasonable request.

MR. COMYNS CARR: Yes, to deposit the copies in any case where we are only using an excerpt. If we are using the whole day's entry, that would not be necessitated.

MR. LOGAN: Well, I would like to have both because of the number of accused involved, so they

would have an opportunity to read them over ahead of time and see if they have any suggestions to make with respect to them.

And where you are only using part of the day, of course, we would like to definitely have those seven days ahead of time in case we wish any further parts of that particular day.

MR. COMYNS CARR: I am very willing to do it; I am only thinking whether it is going to be a physical possibility in all cases. This next phase, in which most of these will appear, is one which is very heavily documented, and the practical difficulties of getting all the documents ready are very considerable.

MR. LEVIN: Do I understand that Mr. Logan is to be furnished with a separate copy of the excerpts, which would be available to us?

MR. COMYNS CARR: Well, of course, all of them will be served, in accordance with the ordinary rules, twenty-four hours in advance. But whether I can safely promise to serve them seven days in advance, I am not sure whether I can.

MR. LOGAN: I would like to have additional copies in addition to those which you file in the Clerk's office.

MR. COMYNS CARR: If we can have them ready, there is no difficulty in supplying two. It is as

easy to supply two as one. But I am not sure all of them will be ready within seven days of the day on which they are tendered in evidence. I think they will, but I cannot promise.

MR. LEVIN: I think that extra copy is important, because if it is in the possession of Mr. Logan or one of our associates, it is available to us at times when we are not able to go in the Clerk's office or wherever it is deposited. And in view of the fact we are in Court all of the day it would expedite matters and help counsel to have that.

MR. LOGAN: Suppose we leave it this way, that you deposit all those you have at the present time, and furnish the rest of them as they are available and ready.

MR. COMYNS CARR: Certainly.

MR. LOGAN: That would be of assistance to us.

MR. COMYNS CARR: That we will certainly do.

MR. FURNESS: It would be of great assistance if we could get them seven days in advance because we will know whether we have to attend court or not. I think that is important.

MR. COMYNS CARR: Yes, I think I can safely say that you will have them some days in advance, but to say all of them will be ready seven days in advance would be difficult in view of the congestion.

MR. LEVIN: We would not be too critical of some of them if you would not be able to give them to us seven days in advance, but if you can in the majority of cases, that would be very helpful.

MR. COMYNS CARR: That would be very helpful.

MR. LOGAN: Mr. President, that comes on an oral agreement rather than formal application, because Mr. Carr wants that done as quickly as possible.

THE PRESIDENT: Well, you have reached an agreement on all points. The agreement will be recorded and acted upon.

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(Whereupon, at 0905, the proceeding was concluded.)

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